

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN RE: CASE NO. 05-11569)	
)	
JENNIE CHRISTINE PARSLEY)	
)	
Debtor)	
)	
)	
MALINDA A. MILLIS)	
)	
Plaintiff)	
)	
vs.)	PROC. NO. 05-1166
)	
JENNIE CHRISTINE PARSLEY)	
)	
Defendant)	

DECISION AND ORDER

At Fort Wayne, Indiana on October 5, 2005.

In this adversary proceeding the court has been asked to determine the dischargeability of the debtor's obligation to the plaintiff. Rather than filing an answer, the debtor responded with a motion to dismiss arguing that the plaintiff's complaint had failed to comply with the requirements of Rule 7008 of the Federal Rules of Bankruptcy Procedure and, therefore, was vulnerable to dismissal under Rule 12(b)(1) and (2) of the Federal Rules of Civil Procedure. Instead of responding directly to this motion, the plaintiff filed its own motion asking for leave to file an amended complaint. Yet that request was unnecessary. Since the defendant has not filed an answer to the complaint the plaintiff has a right to amend that pleading as a matter of course at any time. Thus, leave of court is not required. See, Fed.R.Civ.P.Rule15(a). Since an amended complaint may well cure the

deficiencies about which the defendant complains, the motion to dismiss may well become moot.

IT IS THEREFORE ORDERED that the plaintiff shall file any amended complaint within seven (7) days of this date and the defendant's motion to dismiss, filed on August 19, 2005, is DENIED.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court